

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Goldapper	Team: Team # 6	CCRB Case #: 201114190	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/07/2011 11:15 PM	Location of Incident: § 87(2)(b)	Precinct: 09	18 Mo. SOL 12/7/2012	EO SOL 12/7/2012	
Date/Time CV Reported Mon, 10/31/2011 2:12 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 10/31/2011 2:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Eric Dym	00577	933762	PSA 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Dunne	20950	936530	PSA 4
2. POM Thomas Richards	19086	927410	PSA 4

Officer(s)	Allegation	Investigator Recommendation
A.SGT Eric Dym	Abuse: Sgt. Eric Dym stopped § 87(2)(b)	§ 87(2)(b)
B.SGT Eric Dym	Abuse: Sgt. Eric Dym searched § 87(2)(b)	§ 87(2)(b)

Case Summary

On October 31, 2011, § 87(2)(b) filed his complaint with the CCRB by mail (encl. 15). On June 7, 2011, at approximately 11:15 p.m., § 87(2)(b) was walking in the vicinity of § 87(2)(b) in Manhattan, when the following allegations resulted:

- **Allegation A – Abuse of Authority: Sgt. Eric Dym stopped** § 87(2)(b) The § 87(2)(b), § 87(2)(g)
- **Allegation B – Abuse of Authority: Sgt. Eric Dym searched** § 87(2)(b) § 87(2)(b), § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: MR. § 87(2)(b)

- § 87(2)(b)

Statements

On October 31, 2011, § 87(2)(b) filed his complaint with the CCRB by mail (encl. 15). § 87(2)(b) provided the CCRB with a phone statement on November 3, 2011 (encl. 17) and was interviewed at the CCRB on November 15, 2011 (encl. 18). § 87(2)(g)

On June 7, 2011, at approximately 11:15 p.m., § 87(2)(b) approached his housing complex, the § 87(2)(b), located at § 87(2)(b) in Manhattan. It should be noted that § 87(2)(b) reported that the time of incident was 9:21 p.m. § 87(2)(b) had been walking around his neighborhood for 15 to 20 minutes prior and was returning home because he did not feel well and needed to use the bathroom.

§ 87(2)(b) was wearing blue jeans and a white or grey shirt and a beige hat. § 87(2)(b) was carrying a bag, which contained his camera and paperwork. In his front pant pocket, § 87(2)(b) had beads, a wooden cross, paperwork and tissues. In his left front pocket, § 87(2)(b) had his wallet. In § 87(2)(b)'s back right pant pocket he had paperwork and a handkerchief. § 87(2)(b) did not have anything in his left back pocket. Attached to the right side of the back of his pants was a tethered knife case with a Leatherman and Swiss army knives.

As § 87(2)(b) was walking toward his building, an officer, identified by the CCRB as Sgt. Eric Dym from PSA4, who was approximately 33 feet away from § 87(2)(b) asked § 87(2)(b) to “come here.” § 87(2)(b) described Sgt. Dym as a white male, who was 5’7”-5’8” tall, thin build, blonde hair, and was dressed in plainclothes. § 87(2)(b) and Sgt. Dym walked toward each other. Sgt. Dym asked § 87(2)(b) for his identification but did not tell § 87(2)(b) why he wanted it. § 87(2)(b) handed Sgt. Dym a NYC parks and recreation card, but Sgt. Dym did not seem satisfied and asked Sgt. Dym for a different form of ID. § 87(2)(b) handed Sgt. Dym his Medicaid card, but again, Sgt. Dym was not satisfied. After § 87(2)(b) provided Sgt. Dym with his drivers’ license, Sgt. Dym walked away from § 87(2)(b) and convened with three other officers, who stood off to the side. One of the officers was identified through the investigation as PO Thomas Dunne from PSA4. § 87(2)(b) described PO Dunne as a white male, who was 5’7”-5’8” tall, stockier build than Sgt. Dym, had

brown hair, was dressed in plainclothes and a shield number that began with “205.” § 87(2)(b) described the two other officers as white males who were dressed in uniform. § 87(2)(b) did not interact with the two officers in uniform.

After the officers had a brief discussion off to the side, Sgt. Dym returned to § 87(2)(b) and asked him about his knives, which § 87(2)(b) explained were tethered and not immediately accessible. Sgt. Dym asked § 87(2)(b) if he had other weapons, drugs or any other sharp objects on him and told § 87(2)(b) that he had to search him. Sgt. Dym proceeded to search § 87(2)(b) by putting his hands inside § 87(2)(b) s pant pockets. When the undersigned asked § 87(2)(b) what happened to the items in his pockets, § 87(2)(b) said that he did not remember whether Sgt. Dym removed any items from his pockets. Sgt. Dym returned § 87(2)(b) s ID to him. PO Dunne asked § 87(2)(b) if he was interested in coming down to the stationhouse to participate in a line-up. § 87(2)(b) declined. § 87(2)(b) was not arrested or issued a summons. § 87(2)(b) did not see any of the officers record his information.

§ 87(2)(b) waited almost five months to file the complaint because he initially tried to ignore the incident but became haunted by it. § 87(2)(b) had not filed a lawsuit because he did not have the involved officer’s name or shield number and indicated that he would consider filing a lawsuit if that information became available to him.

NYPD Statements:

Subject Officer: SGT. ERIC DYM

- § 87(2)(b)
- *Sgt. Dym worked from 6:00 p.m. on June 7, 2011, to 2:44 a.m. on June 8, 2011, and was dressed in plainclothes. Sgt. Dym was assigned to anti-crime and worked with PO Richard Dunne. He was assigned to vehicle #§ 87(2)(b) a black Crown Victoria.*

Memo Book

Sgt. Dym’s memo book (encl. 27) reflects that on June 7, 2011, at 11:15 p.m. there was one male stopped at § 87(2)(b). At 11:25 p.m. a stop, question and frisk report was prepared.

CCRB Statement

Sgt. Dym was interviewed at the CCRB on September 4, 2012 (encl. 30). On June 7, 2011, at approximately 11:15 p.m., Sgt. Dym was working in the vicinity of § 87(2)(b) in Manhattan. Initially, Sgt. Dym had no independent recollection of this incident. However, after reviewing photographs of § 87(2)(b) Sgt. Dym remembered that § 87(2)(b) was stopped because he matched the description of a robbery suspect that took place in the area. Sgt. Dym believed that there was an open case for a robbery that occurred in the past and believed there may have also been a robbery that same day. § 87(2)(b) fit the description of the robbery suspect “to a tee” and he subsequently forwarded the UF-250 for this incident to the detective squad.

After reviewing the UF-250 that was prepared by PO Dunne, Sgt. Dym acknowledged that § 87(2)(b) was frisked at the scene. Sgt. Dym remembered that § 87(2)(b) had a bulge on his waistband but did not remember anything about a knife on § 87(2)(b) s waistband. Sgt. Dym did not remember which officer frisked § 87(2)(b). Sgt. Dym denied that any officers searched § 87(2)(b) or went into his pockets and acknowledged that the UF-250 also reflected that § 87(2)(b) was not searched.

Sgt. Dym said that § 87(2)(b) was agitated verbally and was acting suspiciously. Sgt.

Dym did not remember what § 87(2)(b) was saying and could not elaborate on how § 87(2)(b) was acting suspiciously. Sgt. Dym did not have an independent recollection of § 87(2)(b) displaying furtive movements, but acknowledged that furtive movements were reflected on the UF-250. Sgt. Dym remembered that § 87(2)(b) lived in the housing development at the incident location.

Sgt. Dym did remember other officers being in the area because of the robbery but Sgt. Dym did not remember any other officers, other than PO Dunne, being present during the interaction with § 87(2)(b). Sgt. Dym did not remember whether he or PO Dunne had the main interaction with § 87(2)(b). The incident location has a lot of violent crimes, including robberies and grand larcenies.

Sgt. Dym did not remember if § 87(2)(b) ever produced ID. Sgt. Dym did not remember any officers asking § 87(2)(b) if he wanted to come to the stationhouse to participate in a line up. Sgt. Dym did not remember how the interaction with § 87(2)(b) ended.

Complaint Report

After Sgt. Dym's CCRB interview, Sgt. Dym faxed the undersigned a copy of a related complaint report (encl. 32). The complaint report reflects that on June 3, 2011, inside of § 87(2)(b) a completed robbery occurred. The suspect was described as a 35-year-old dark-skinned black Hispanic male, who was 5'8" tall, weighed 160 pounds, had black short hair and a pimpled complexion. A suspect was arrested on July 14, 2011.

Witness Officer: PO THOMAS DUNNE

- § 87(2)(b) PO Dunne's shield number is "20950".
- On June 7, 2011, PO Dunne worked from 6:00 p.m. until 2:35 a.m. on June 8, 2012, and was dressed in plainclothes. PO Dunne was assigned to anti-crime and worked with Sgt. Eric Dym. He was the operator of unmarked vehicle #§ 87(2)(b).

Memo Book

PO Dunne's memo book (encl. 36) reflected that on June 7, 2011, at 11:15 p.m., § 87(2)(b) of § 87(2)(b) § 87(2)(b) in Manhattan, was stopped at § 87(2)(b) in Manhattan, because he fit the description of a robbery suspect. § 87(2)(b) is a black male. A stop, question and frisk report was prepared.

Stop, Question and Frisk Report

PO Dunne was the reporter listed on the computerized version of the stop, question and frisk report relating to this incident (encl. 39). The report reflects that on June 7, 2011, at 11:15 p.m., a male, identified by the CCRB as § 87(2)(b) was stopped on suspicion of a robbery, outside of § 87(2)(b) in Manhattan. § 87(2)(b) was described as a black Hispanic male, who was 5'11" tall, weighed 170 pounds. Circumstances leading up to the stop were fits description and furtive movements. Additional factors include area has high incidence of reported offense and ongoing investigation. § 87(2)(b) was frisked on the basis of violent crime suspected and he was not searched. The stop lasted five minutes.

CCRB Statement

PO Dunne was interviewed by the CCRB on July 10, 2012 (encl. 40). PO Dunne did not remember the incident. Reviewing photographs of § 87(2)(b) and the computerized stop, question and frisk report did not help refresh PO Dunne's recollection of this incident.

Other Officers Interviewed

PO Thomas Richards was interviewed at the CCRB on July 3, 2012 (encl. 42). However, the investigation determined that PO Richards was not present during the incident, as PO Richards' memo book reflects that he took a chart day and was not working on the date of incident.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of October 18, 2012, with regard to the incident (encl. 50).

Civilian Criminal History

- As of October 18, 2012, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) (encl. 60).

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 13).

Subject Officer CCRB History

- Sgt. Dym has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 12).

Conclusion

Identification of Subject Officer

§ 87(2)(b) described the two plainclothes officers as white males, who were 5'7" to 5'8" tall. § 87(2)(b) described the officer who asked for his ID and searched him as having a thin build and blonde hair and described the other plainclothes officer as having brown hair with a stockier build. § 87(2)(b)

Because Sgt. Dunne has blonde hair and weighs less than PO Dunne, the investigation determined that § 87(2)(b) was describing Sgt. Dym as the officer who asked for his ID and searched him. Therefore, Allegations A and B are pleaded against Sgt. Dym.

Allegation Not Pleaded

Although Sgt. Dym acknowledged that a frisk of § 87(2)(b) occurred, § 87(2)(b) did allege that he was frisked. Therefore no frisk was pleaded.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Eric Dym stopped § 87(2)(b)

It is undisputed that Sgt. Dym stopped § 87(2)(b). Police may stop an individual if the officer has a reasonable suspicion that the person has committed, is committing or is about to commit a felony or a misdemeanor. *People v. De Bour*, 40 N.Y.2d210 (1976) (encl. 1). § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation B – Abuse of Authority: Sgt. Eric Dym searched § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Dym searched him by entering his pockets. Sgt. Dym acknowledged that § 87(2)(b) was frisked, as reflected in the stop, question and frisk report, but denied that § 87(2)(b) was searched. § 87(2)(b), § 87(2)(g)

[REDACTED]

Investigator: _____ Lauren Goldapper _____
Signature Print Date

Supervisor: _____

Title/Signature	Print	Date

Reviewer: _____

Title/Signature	Print	Date
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Reviewer: _____
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